



U.S. Department of Justice

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March 21, 2025

By ECF and Email

The Honorable Diane Gujarati
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Cherwitz, et al.
Criminal Docket No. 23-146 (DG)

Dear Judge Gujarati:

The government respectfully submits this letter in response to letters submitted by counsel for defendants Nicole Daedone and Rachel Cherwitz on March 13 and 14, 2025, alleging that the government withheld or destroyed evidence. ECF Dkt. Nos. 293 & 295. The defense's allegations are without merit.

The government throughout this case has consistently complied with its obligations under 18 U.S.C. § 3500, Brady v. Maryland, 373 U.S. 83 (1963), Giglio v. United States, 405 U.S. 150 (1972), and its progeny. Indeed, the government disclosed far in advance of trial statements of all individuals interviewed by the Federal Bureau of Investigation throughout the investigation, including individuals whom the government has indicated it does not intend to call as witnesses at the upcoming trial. By contrast, the defense has declined to produce any additional 26.2 material, notwithstanding that the defense regularly cites to and attaches to its filings documents that it obtained from OneTaste, Inc. ("OneTaste"), and where counsel for OneTaste have participated for months as members of the defense team in the above-captioned case.

Furthermore, two recent allegations by the defense in particular warrant correction. First, in its March 13, 2025 letter, counsel for Rachel Cherwitz asserted that the defense had "produced to the government an email between [Ayries] Blanck" and a special agent of the Federal Bureau of Investigation ("FBI"), which they assert was "missing" from the government's 18 U.S.C. § 3500 productions, raising questions about "whether it has been deleted" from the special agent's email account. ECF Dkt. No. 293 at 2. As an initial matter, the government no longer intends to call Blanck, as the government has previously informed the Court. In any event, the government confirmed through a diligent search that the email

identified by the defense was a draft email that Blanck did not send.¹ Accordingly, the suggestion that the email was “missing” or otherwise “deleted” is inaccurate.

Second, in her March 14, 2025 letter, counsel for Nicole Daedone alleged that an FBI special agent “may have scrubbed [a hard drive provided by Blanck] of exculpatory evidence” and was “responsible for devising a pretextual search warrant.” ECF Dkt. No. 295 at 1. This allegation is baseless. Indeed, the hard drive, when received, was in a format that rendered its contents unreadable at a standard FBI workstation, which employs a Windows operating system. As previously noted, the hard drive contained a set of readable files, which were only viewable only using a Mac computer, as well as a collection of unreadable files in unallocated space on the drive which were recoverable and viewable only using forensic tools.

Respectfully submitted,

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Counsel for Cherwitz and Daedone (via ECF and Email)

¹ The relevant draft email was produced in discovery in OneTaste’s civil lawsuit against Blanck at Bates-stamp BLANCK_0001109. The government obtained a native version of the email, which is in draft form, and provided a copy to defense counsel on March 18, 2025. The government also performed a thorough email review and confirmed that the FBI special agent did not receive the email, consistent with the government’s understanding that the email was in draft form and, thus, was never sent.